



**Association for Criminal Justice Research and  
Development (ACJRD)**

**Submission to:  
The Irish Prison Service**

**Review of Irish Prison Rules 2007**

ACJRD seeks to inform the collaborative development of effective evidence-based policy and practice in criminal justice

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## 1. Introduction

- 1.1. The Association for Criminal Justice Research and Development (ACJRD) is a non-governmental, voluntary organisation which seeks to inform the collaborative development of effective evidence-based policy and practice in criminal justice. It does so mainly by providing a forum where experienced personnel can discuss ways of working in an informal setting, by promoting study and research in the field of criminal justice and by promoting the highest standards of practice by professionals associated with criminal justice. ACJRD informs the development of policy and practice in justice.
- 1.2. The ACJRD's membership is varied but is largely comprised of individuals who have experience working within the criminal justice system and who have a strong interest in criminological matters. These include legal practitioners, academics, Criminal Justice Agencies and NGOs.
- 1.3. The ACJRD's approach and expertise is therefore informed by the 'hands on' expertise of practitioners, academics and agencies who deal with various aspects of the criminal justice system enhanced by the contribution of people with diverse experiences, understandings and practices.
- 1.4. However, the views expressed in this submission are those of ACJRD in its independent capacity and are not those of individual ACJRD members or member organisations or agencies or their employees.
- 1.5. The purpose of this submission is to provide an overview of the amendments that the ACJRD believes must be included in the Irish Prison Service review of the Irish Prison Rules 2007. Any suggestions made by the ACJRD in respect of the review of the Prison Rules are made in light of what the ACJRD believes is essential for ensuring that the human rights of all Irish Prisoners are respected and to reduce recidivism by supporting re-integration into society.
- 1.6. This submission will focus on (1) Conditions of Imprisonment, (2) Healthcare Provisions, (3) Restricted Regime Prisoners, (4) Family Relationship, (5) the Language of the Prison Rules and (6) Accountability in Irish Prisons. The order in which these topics are dealt with should not be regarded as implying an order of priority but rather all should be seen as being of equal importance.

## 2. Conditions of Imprisonment

2.1. In accordance with the Nelson Mandela Rules<sup>1</sup> all prisoners shall be treated with respect due to their inherent dignity and value as human beings. The ACJRD believes that for this principle to be met improvements need to be made to the conditions of imprisonment in Ireland.

2.2. A number of conditions will now be addressed in further detail. These conditions should not be regarded as being of greater importance than other conditions of imprisonment. The ACJRD will address overcrowding, sanitary conditions, access to services, education services, religious freedom, staffing and conditions for women.

### 2.3. *Overcrowding*

2.3.1. It is essential that the safety of prisoners is given the utmost regard and a factor which can have an adverse impact on this is overcrowding within the prison system. When prisons are overcrowded there is a heightened risk for violence.<sup>2</sup> The Council of Europe in its White Paper stated that below 90% is the optimal capacity level within prisons.<sup>3</sup> Therefore, the Irish Prison Service needs to meet this capacity level across all its prisons.

2.3.2. While there was a reduction of 7.6% of inmates across the Irish Prison Service in 2021<sup>4</sup>, partially due to COVID-19, a number of Irish prisons are still operating at capacity or near capacity when measured against the Council of Europe's standard as seen in the table below.

Table 1: Capacity levels of Prisons 2021<sup>5</sup>

| Prison              | Number in Custody 2 <sup>nd</sup> September 2021 | % of Capacity | Number in Custody 2 <sup>nd</sup> August 2021 | % of Capacity | Number in Custody 2 <sup>nd</sup> July 2021 | % of Capacity | Capacity per IPS |
|---------------------|--|---------------|---|---------------|---|---------------|------------------|
| <b>Mountjoy (m)</b> | 688  | 91%           | 702   | 93%           | 697   | 92%           | 755              |
| <b>Mountjoy (f)</b> | 106  | 73%           | 113   | 77%           | 122   | 84%           | 146              |
| <b>Cloverhill</b>   | 385  | 89%           | 378   | 88%           | 365   | 85%           | 431              |
| <b>Wheatfield</b>   | 544  | 89%           | 529   | 87%           | 553   | 91%           | 610              |
| <b>Midlands</b>     | 784  | 90%           | 820   | 94%           | 814   | 93%           | 875              |
| <b>Portlaoise</b>   | 207  | 71%           | 208   | 71%           | 207   | 71%           | 291              |

<sup>1</sup> United Nations, Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules).

<sup>2</sup> Department of Justice, *Reports of the Commission of Investigation into the death of Gary Douch*, Volume 2, Final Report, overcrowding was cited as a factor that increased violence and ultimately lead to the death of Gary Douch.

<sup>3</sup> Council of Europe, *White Paper On Prison Overcrowding*, (2016), Point 20, p.7.

<sup>4</sup> Office of the Inspector of Prisons, *Annual Report*, (2020), p. 7.

<sup>5</sup> Irish Prison Service, *2021 Prison Populations*, (2021).

|                      |       |     |       |     |       |      |       |
|----------------------|-------|-----|-------|-----|-------|------|-------|
| <b>Cork</b>          | 245   | 83% | 251   | 85% | 272   | 92%  | 296   |
| <b>Limerick (m)</b>  | 181   | 86% | 193   | 92% | 209   | 71%  | 210   |
| <b>Limerick (f)</b>  | 24    | 86% | 27    | 96% | 25    | 100% | 28    |
| <b>Castlerea</b>     | 292   | 86% | 296   | 87% | 298   | 89%  | 340   |
| <b>Arbour Hill</b>   | 125   | 91% | 131   | 95% | 128   | 88%  | 138   |
| <b>Loughan House</b> | 100   | 72% | 100   | 71% | 98    | 71%  | 140   |
| <b>Shelton Abbey</b> | 102   | 89% | 105   | 91% | 104   | 91%  | 115   |
| <b>Total</b>         | 3,783 | 86% | 3,853 | 88% | 3,892 | 89%  | 4,375 |

2.3.3. In connection with the levels of capacity in the Irish Prison Service, there are also a number of prisoners in shared cell accommodation. In 2021, 2,048 (56%) cells accommodated one prisoner, 708 cells accommodated two prisoners (1,416 prisoners), 62 cells accommodated three prisoners (186 prisoners) and 14 cells accommodated four or more prisoners (33 prisoners).<sup>6</sup> According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) the minimum standard for personal living space in prison establishments is six metres squared for a single occupancy cell, plus sanitary facilities, and four metres squared of living space per prisoner in a multi-occupancy cell, as well as a fully partitioned sanitary facility.<sup>7</sup> In view of this requirement further attention needs to be given as to whether Irish prisons are meeting this standard.

2.3.4. In the current version of the Rules there is no specific provision on optimal prison capacity levels in Ireland nor is there a provision on possible procedures to follow when prisons are at or over capacity. In the revised Rules there needs to be standards and procedures put in place in regard to prison capacity. Further, there needs to be greater transparency on the requirements for accommodation in Irish prisons. Currently, Rule 18 provides a wide discretion for the Minister to decide on the suitability of prison accommodation. The ACJRD submits that there needs to be specific rules on what can be considered suitable accommodation for prisoners and what would not be considered suitable.

## 2.4. Sanitary Conditions

2.4.1. The European Prison Rules state that all prisoners should have access to sanitary facilities that are hygienic and respect the prisoner's privacy.<sup>8</sup> Despite this recognised standard there are still a significant number of prisoners in Ireland who are not afforded access to private and hygienic toilet facilities.

<sup>6</sup> Irish Prison Service, *Census Prison Population January 2021 – Cell occupancy – In-Cell Sanitation*, (2021).

<sup>7</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *Living space per prisoner in prison establishments: CPT standards*, (15 December 2015).

<sup>8</sup> European Prison Rules, 19.3 also see Mandela Rules Rule 15.

2.4.2. In April 2021, it was recorded that 1,634 prisoners (43%) were required to use the toilet in the presence of another prisoner.<sup>9</sup> It has been held by the European Courts of Human Rights that toileting in the presence of others can be cited as a factor when ruling on violations under Article 3 (prohibition of inhumane or degrading treatment).<sup>10</sup> This highlights how crucial it is to inspect the current sanitary provisions when reviewing the Irish Prison Rules. In addition, while the practice of slopping out has decreased significantly there are still 42 prisoners as of April 2021<sup>11</sup> who are required to slop out. The revised rules should look to abolish the practice of slopping out.

2.4.3. The current sanitary provision falls under Rule 24; however, this rule comes with a caveat for providing proper sanitary provisions for prisoners. The Rule stipulates that sanitary facilities should be provided “so far as it is practicable” and when not provided in a prisoner’s cell they should still have “reasonable access”. This Rule indicates the possibility to limit a prisoner’s right to access basic sanitary facilities due to the availability of resources. The ACJRD submits that such limitation should not be allowed and that the Rule must be amended to ensure that access to sanitary facilities is not limited. The Rule also fails to provide a detailed description on what can be regarded as reasonable access. This should be rectified in the review of the Prison Rules to allow for transparency and uniform practice across Irish prisons. This will ensure that a standard that respects the human rights and dignity of all prisoners is met in all Irish prisons.

## 2.5. Access to Services

2.5.1. Services provided by outside organisations are essential to the rehabilitation of prisoners. These services can include workshops, educational activities, and vocational training. Despite the importance of such services they are often limited due to external factors such as availability of resources and prison officers. Service providers have described themselves as being hostages to their “Detail”. The Detail is the term used to describe the prison officer who escorts the service provider from A to B. When there is an issue with the detail such as shortages of prison officers internal and external services are affected.<sup>12</sup>

2.5.2. Additionally, service providers have expressed concern about making complaints regarding access to prisoners or certain prison practices out of fear of reprisal. They are concerned that their access may be restricted or permanently blocked.<sup>13</sup> The ACJRD recommends that the Prison Rules should set out a comprehensive list of services which can be offered within a prison and when

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<sup>9</sup> Irish Prison Service, *Census Prison Population January 2021 – Cell occupancy – In-Cell Sanitation*, (2021).

<sup>10</sup> *Peers v. Greece* App No. 28524/95 (ECHR 19 April 2001)

<sup>11</sup> Irish Prison Service, *Census Prison Population January 2021 – Cell occupancy – In-Cell Sanitation*, (2021).

<sup>12</sup> Jane Mulcahy, “Working in Irish Prisons: Perspectives from the Front Lines” (2020) *Irish Criminal Law Journal*.

<sup>13</sup> Concerns raised by service providers at IPRT information session for the review of the Prison Rules.

services may be restricted. This will ensure that service providers are not restricted due to logistical reasons or for making a complaint.

## 2.6. *Religious Freedom*

2.6.1. The Nelson Mandela rules on imprisonment state that prisoners should be allowed to satisfy the needs of their religious life.<sup>14</sup> While the current Prison Rules<sup>15</sup> do set out at prisoners are permitted in prison to carry out the behaviours of their religion, the ACJRD submits that this rule is insufficient in ensuring prisoner have the freedom to express their religion.

2.6.2. Prisoners in Wheatfield have voiced concerns over the lack of facilities for specific religious faiths. It was raised that the prison does not provide an Iman or a small prayer for Muslim prisoners. Further, issues were raised over the preparation of Halal food and the lack of Minister for specific religious faiths.<sup>16</sup> In Mountjoy, prisoners have seen restrictions placed on their access to religious services due to COVID-19.<sup>17</sup> A survey in 2021 found that one quarter of prisoners have faced some form of racism or discrimination<sup>18</sup> as such the Rules need to ensure that prisoners have the freedom to express their religious beliefs without fear of being targeted.

2.6.3. The new rules need to address the issues surrounding restricting religious access and ensuring sufficient facilities are in place for all specific religious faiths. The ACJRD submits that while the existing rules include freedom of religious expression and practice; they should be broadened to include the facilitation of such practice. The new Rules need to set out how the prison will facilitate the freedom of religious expression across all religions to ensure the basic spiritual needs of all prisoners are met.

## 2.7. *Access to Education*

2.7.1. The ability to access education is crucial to prisoners and can assist with reintegration into society once they are released from prison. For a number of prisoners, they may not have had access to education facilities in the past and as such the education services in prison should strive to be ambitious as they can have a positive impact on the prisoner's standard of living after prison. In 2019, report stated that the education system in the prison needs to be developed and expanded.<sup>19</sup> This should be addressed in the new Prison Rules.

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<sup>14</sup> United Nations, Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) Rule 66.

<sup>15</sup> Irish Prison Rules 2007 Rule 34.

<sup>16</sup> Office of the Inspector of Prisons, COVID-19 Thematic Inspection of Mountjoy Men's Prison 1-4 March 2021, (2021).

<sup>17</sup> Office of the Inspector of Prisons, COVID-19 Thematic Inspection of Wheatfield Prison 6-7 April 2021, (2021).

<sup>18</sup> Irish Council For Prisoners Overseas, ICPO Client Survey 2021, (2021).

<sup>19</sup> Houses of the Oireachtas, Joint Committee on Education and Skills Report on Education Inequality and Disadvantage and Barriers to Education May 2019 (2019).

2.7.2. The new Rules should look to expand the facilities for education in Irish Prisons. The new Rules should not only state the right to education, but they should go further and state how education activities will be facilitated to prisoners. The new Rules should include provisions that ensure that prisoners are given the resources they require to meaningfully be able to participate in the education services. Therefore, the ACJRD submits that the new Rule must expand upon the education services in the prisons and include provisions which ensure prisoners are provided with the relevant resources.

### *2.8. Staff Training and Recruitment*

2.8.1. It is vital for the healthy and safe operation of any prison that the staff follow important values such as accountability, integrity, respect for protection of human rights, care, fairness, impartiality and non-discrimination.<sup>20</sup> The prisoners interact with the staff on daily basis and as such it is essential that they are able to build good relationships with the staff members. Therefore, the recruitment and training of staff needs to be examined when amending the Prison Rules.

2.8.2. The Council of Europe have issued guidelines on recruitment, selection, education, training and professional development of prison and probation staff.<sup>21</sup> The ACJRD submits that these guidelines should be incorporated into the new Prison Rules. Further, there needs to be specific rules on staff training, continuous professional development, diversity in recruitment, support and accountability. This will help ensure that prisoners will be secure and supported while they are in prison.

### *2.9. Conditions for Women*

2.9.1 Women in prison have specific needs which require additional attention. The UN Bangkok Rules set out a number of minimum standards in relation to women in prison. These include rules on specific health needs, childcare provisions, admission and search procedures, and provisions on treating women humanely. The ACJRD submits that the provisions in the UN Bangkok Rules should be incorporated into the new Prison Rules. The new Prison Rules should also include provisions on an open prison for women.

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<sup>20</sup> Recommendation CM/Rec (2012)5 of the Committee of Ministers to Member States on the European Code of Ethics for Prison Staff (2012).

<sup>21</sup> CoE, Guidelines Regarding Recruitment, Selection, Education, Training and Professional Development of Prison and Probation Staff.



### 3. Healthcare Provisions

3.1. The right to healthcare is a fundamental right which all prisoners must have throughout their time in prison. This right has been outlined in the Mandela Rules, the Bangkok Rules and the European Prison Rules.<sup>22</sup> The ACJRD submission will address amendments which need to be made in regard to both physical and mental healthcare provision in the Irish Prison Rules.

#### 3.2. *Physical Healthcare Provisions*

3.2.1. The European Prison Rules state that the provisions for healthcare for prisoners shall be organised in close relation with the general health administration of the community or nation.<sup>23</sup> The ACJRD believes that the current Prison Rules do not meet this standard and as such a complete review is needed on this area of the Prison Rules.

3.2.2. In the Prison Visiting Committee Annual Reports in 2019,<sup>24</sup> a number of healthcare related issues were raised in a number of prisons. In Arbour Hill, the Committee raised concerns that there is no doctor available to prisoners on the weekend.<sup>25</sup> In Castlerea, there is currently no General Practice Doctor assigned to the prison. The Committee raised a concern that the lack of clinical governance and oversight of prisoner care presents potential problems.<sup>26</sup> In Mountjoy there was a rise in the number of complaints relating to physical health from none being recorded in 2018, to 8 being recorded in 2019.<sup>27</sup> Issues were also raised in the Midlands Prisons surrounding access to a doctor.<sup>28</sup>

3.2.3. The Office of the Inspector of Prisons carried out a review of Healthcare in Irish Prisons in 2016, whereby it was heavily advocated that the healthcare of prisoners should be provided for by the Department of Health.<sup>29</sup> This position was echoed by the Council of Europe in its official commentary to the revised and updated European Prison Rules 2006 where it stated that the national health authority should also be responsible for providing the healthcare in prison.<sup>30</sup> The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommended in its report to the Government dated 17

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<sup>22</sup> United Nations, Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) Rule 24-35; United Nations, Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), (2010), Rule 10; European Prison Rules Part 3 39-48.2.

<sup>23</sup> European Prison Rules, 40.1.

<sup>24</sup> Unfortunately, there are currently no reports available for 2020 or 2021 which can provide an updated outline of the current healthcare regimes in the prisons.

<sup>25</sup> Department of Justice and Equality, *Arbour Hill Visiting Committee Annual Reports*, (2019).

<sup>26</sup> Department of Justice and Equality, *Castlerea Prison Visiting Committee Annual Reports*, (2019).

<sup>27</sup> Department of Justice and Equality, *Mountjoy Prison Visiting Committee Annual Reports*, (2019).

<sup>28</sup> Department of Justice and Equality, *Midlands Prison Visiting Committee Annual Reports*, (2019).

<sup>29</sup> Office of the Inspector of Prisons, *Healthcare in Irish Prisons, Report by Judge Michael Reilly*, (2016).

<sup>30</sup> Council of Europe, *Commentary to Recommendation REC(2006)2 of the Committee of Ministers to member states on the European Prison Rules*, (2018).

November 2015 that Irish authorities should consider bringing prison healthcare under the responsibility of the Minister for Health.<sup>31</sup> The growing trend of placing prison healthcare under the Minister for Health can be seen in a number of countries.<sup>32</sup>

3.2.4. Nevertheless, despite the above recommendation, prison healthcare remains under the remit of the Irish Prison Service. The failure to provide adequate healthcare for prisoners can have significant impact on their right to life and may amount to inhumane or degrading treatment.<sup>33</sup> The ACJRD urges when reviewing the Prison Rules to consider the steps that need to be taken to place prison healthcare under the Minister for Health and for the revised Rules to explicitly state obligations of the Minister for Health in regard to prison healthcare. The revised Rules must provide principles outlining how cooperation between prison healthcare and national healthcare should operate in order to move away from the current disjointed practice.<sup>34</sup>

3.2.5. The ACJRD submits that Rule 103 should be amended. This Rule allows for the Governor to not implement the recommendation of a doctor.<sup>35</sup> This provision fails to provide clarity as to when a Governor can make such recommendation. Further, the prison does not provide a mechanism whereby the refusal can be revisited at a later stage to determine if the doctor's recommendation can be carried out at a later date. The ACJRD recommends that for greater transparency and to ensure the healthcare of all prisoners is met this provision should be amended to provide guiding principles on when refusal should occur as well as review procedure which will allow the recommendation to be revisited at a later stage.

### 3.3. *Mental Health Provisions*

3.3.1. The World Health Organisation has acknowledged that the prison environment is harmful to mental health, substance abuse is widespread, and diversion is often underdeveloped, under-resources and badly administered.<sup>36</sup> It has further stated poor prison conditions such as overcrowding, solitary confinement, violence and lack of meaningful activity can all have negative effects on mental health.<sup>37</sup> These listed factors are all prevalent in the Irish Prison System and there should be

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<sup>31</sup> Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 16 to 26 September 2014*, (2015).

<sup>32</sup> Department of Health and the International Centre for Prison Studies, *Prison Health and Public Health: The integration of Prison Health Services Report from a conference*, (April 2004), refers to Australia, France, the UK and Norway.

<sup>33</sup> Office of the Inspector of Prisons, *Investigation Report into The Circumstances Surrounding The Death Of Mr I 2018*, (2020).

<sup>34</sup> CPT report from 2014 visit, *supra* note 26.

<sup>35</sup> Irish Prison Rules 2007.

<sup>36</sup> World Health Organisation, *Trencin Statement on Prisons and Mental Health* (October 2007) p.5.

<sup>37</sup> World Health Organization and International Committee of the Red Cross, *Information Sheet: Mental Health and Prisons* (2005).

specific attention to mental health provisions when reviewing the Irish Prison Rules.

3.3.2. The CPT in its report to the Irish Government after its 2019 visit highlighted the lack of structured activities for those suffering from mental health problems in Irish prisons. CPT noted that in Cork Prison at the Vulnerable Prison Unit (VPU) there were no purposeful activities being offered to prisoners apart from access to the exercise yard.<sup>38</sup> In the High Support Unit (HSU) in Mountjoy Prison there was found to be a complete lack of structured activities. The proposed programme of activities remained theoretical and unengaging. There was still no occupational therapy, individual or group psychotherapy or recreational therapy, only pharmacotherapy. In summary, the prisoners wandered idly around the unit or the yard and watched television.<sup>39</sup> The CPT has recommended that structured activities be developed in both these units. Similar recommendations were made for the D2 Unit in Cloverhill Prison after the CPT found there to be a lack of planning on day-to-day care of the men in the unit and there were no structured activities.<sup>40</sup> The ACJRD puts forward that the revised Prison Rules should have specific provisions on the need for structured activities for prisoners suffering with their mental health.

3.3.3. The number of prisoners suffering from mental health problems in Irish Prisons is significantly high. A 2005 research study identified that the percentage of remand prisoners with psychotic disorders in Ireland (9.3%) is more than twice the percentage of prisoners with psychotic disorders found internationally (3.6%).<sup>41</sup> Studies have also shown that when all mental illnesses are combined, rates ranged from 16% of male committals to 27% of sentenced men, while the rate for female committals was 41% and 60% for sentenced women.<sup>42</sup> A study by Irish Prison Service showed that there were 223 incidents of self-harm in Irish prisons between 1 January and 31 December 2017. An episode of self-harm was recorded for 4% of the prison population. Despite, such figures there is a lack of sufficient mental health facilities in Irish Prison. The CPT during its 2019 visit, found there to be insufficient staffing levels in the D2 in Cloverhill Prison. The mental health team consisted of 1.3 FTE consultant, 2.8 FTE junior doctor posts and 1.6 FTE senior registrar and only two nurses (one of whom was on long-term sick leave). This was regarded as insufficient. Instead, there should be at least six mental health nurses, as well as an occupational therapist, a psychologist, a social

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<sup>38</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 23 September to 4 October 2019*, (2020).

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Curtin, K., Monks, S., Wright, B., Duffy, D., Linehan, S., & Kennedy, H., "Psychiatric morbidity in male remanded and sentenced committals to Irish prisons", (2019) *Irish Journal of Psychological Medicine*, 26(4), 169-173.

<sup>42</sup> Ibid.

worker and some administrative support.<sup>43</sup> In 2019, the ratio of Psychologists to prisoner bed space in Cloverhill Prison was 1:287, while in the Midlands it was 1:384.<sup>44</sup> ACJRD proposes that required staffing levels for psychiatric units should be included in the revised Prison Rules.

3.3.4. A prison setting cannot be expected to offer the full range of therapeutic options that should be available in a psychiatric hospital. However, the waiting periods for prisoners to be transferred to appropriate facilities is considerably long. In 2019, the Central Mental Hospital was at 100% capacity and the average waiting time for transfer from prison to the CMH is 120.86 days (with a range from seven to 504 days).<sup>45</sup> During the CPT 2019 visit, it found that in the D2 unit in Cloverhill prison there were 10 patients waiting to enter the Central Mental Hospital and to accommodate the overflow prisoners, were required to sleep on mattresses on the floor.<sup>46</sup> While a facility is expected to open in Portrane which will accommodate 170 patients this seems unlikely to resolve the shortage in mental health facilities. The review of the Prison Rules should consider including provisions for procedures to follow when there is a shortage of beds in mental health facilities.

3.3.5. A possible solution that could be considered is diversion. The rationale for diversion of defendants and offenders with mental health problems is that it connects them with the relevant services that can help them with their underlying problem.<sup>47</sup> This is done prior to them being brought to prison and has often been cited as practice which reduces recidivism.<sup>48</sup> In order to accommodate diversion, there needs to be intensive regional care units developed that would facilitate the care of those with mental illness and could address the issues relating to lack of health facilities in prisons. The revised Rules should then include provisions on how the Irish Prison Service and An Garda Síochána could divert prisoners and how they would engage with these intensive regional care units.

## 4. Restricted Regime Prisoners

4.1. Under the current Prison Rules, prisoner regimes can be restricted for a number of reasons; (1) by order of the Governor (Rule 62), (2) if the prisoner is placed on protection (Rule 63), or if the prisoner is placed into a special observation cell, i.e., for medical reasons (Rule 64). The detrimental impact of restricted regimes and solidarity

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<sup>43</sup> CPT report from 2019 visit, *supra* note 33.

<sup>44</sup> Kildare Street, *Written Answers, Thursday 13 June 2019, Department of Justice and Equality, Prison medical services*, (2019).

<sup>45</sup> Irish Penal Reform Trust, *Progress in the Penal System (PIPS) A framework for penal reform*, (2019).

<sup>46</sup> CPT report from 2019 visit, *supra* note 33.

<sup>47</sup> Charles O'Mahony, "Responding to defendants and offenders with the Mental Health Problems in Ireland: The Need for Reform", (2017) *Irish Criminal Law Journal*.

<sup>48</sup> *Ibid.*

confinement is well documented.<sup>49</sup> As such it is essential to minimize any negative effects the prisoner may otherwise suffer.

- 4.2. The Nelson Mandela Rules refer to solitary confinement as a period lasting up to 22 hours without meaning human contact. Prolonged solitary confinement is a time period in excess of 15 days.<sup>50</sup> When a prisoner's regime is restricted under Rule 62, by order of the Governor, it may be ordered that their ability to take part in structured activities and recreation with others is limited or even removed. While under protection, if the Governor believes it to be in the prisoner's best interest, they may take part in supervised structured activity with other prisoners 'on protection'. However, this can be limited in comparison to other prisoners in order to accommodate the protection. This means they may get as little as one hour of recreation or outdoor activity a day.
- 4.3. In April 2021, a number of prisoners were held on different restricted regimes, with 186 being held on 22-hour restricted regime, 133 on 23-hour restricted regime and 15 being held on a 24-hour restricted regime.<sup>51</sup> The number of prisoners on restricted regimes decreased by 81 in April 2021. This figure can be calculated when comparing the 824 prisoners on restricted regimes in January 2021 to 743 prisoners in April 2021. This is an overall decrease of 10%.<sup>52</sup> While this is a welcomed decrease, the number of prisoners on restricted regimes is still higher than October 2020 when there were 728 prisoners on restricted regimes.<sup>53</sup> As such the figures suggest that there is a fluctuating rate of prisoners on restricted regimes rather than a trend of an overall decrease.
- 4.4. Due to COVID 19, prisoners in quarantine, which could last up to 14 days, faced restricted regimes with minimal human contact and very little yard time. In Mountjoy it was reported that prisoners only received short interactions with healthcare staff and six-minute phone calls with family and/or their solicitors. Prisoners received 15 minutes of yard time during this period and were unable to use shower facilities.<sup>54</sup> Similar procedures are in place for quarantine in Cloverhill Prison where some prisoners said they only spoke to "people for 15 or 20 minutes" in the day and others voiced that they didn't speak to anyone.<sup>55</sup> Moving forward, the issue surrounding restricted regimes needs to be addressed.
- 4.5. As exemplified above, an issue often surrounding restricted regimes relates to the lack of access to structured activities. While prisoners are legally entitled to a minimum of

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<sup>49</sup> Sharon Shalev, "Solitary Confinement As a Prison Health Issue" (November 18, 2017).

<sup>50</sup> Nelson Mandela Rules.

<sup>51</sup> Irish Prison Rules, *Census Of Restricted Regimes April 2021 – Report*, (2021).

<sup>52</sup> Irish Prison Services, *Census Of Restricted Regimes April 2021 – Report*, (2021).

<sup>53</sup> Irish Prison Rules, *Census Of Restricted Regimes April 2021 – Report*, (2021).

<sup>54</sup> Office of the Inspector of Prisons, *COVID-19 Thematic Inspection of Mountjoy Men's Prison 1-4 March 2021*, (2021).

<sup>55</sup> Office of the Inspector of Prisons, *COVID-19 Thematic Inspection of Cloverhill Prison 18-19 March 2021*, (2021).

two hours of meaningful contact there is little information on the out-of-cell time prisoners receive. This was highlighted by the CPT in their 2019 visit whereby it was recommended that prison management should have an accurate record of out of cell time for persons on restricted regimes.<sup>56</sup> The ACJRD submits that the revised Prison Rules should include a provision requiring a record is taken of out-of-cell time for prisoners on restricted regimes and such information should be available publicly to ensure transparency within the prison system. Further, the revision of the Prison Rules should provide concrete rules in regard to structured activities for those on restricted regimes. These rules should set out a minimum standard that needs to be in place for structured activities to be regarded as meeting the required two hours of meaningful human contact.

- 4.6. The European Prison Rules were amended in 2006 to adopt recommendations, a number of which related to solitary confinement. A key feature of these amendments is that prisoners separated for security/safety shall be offered at least two hours of meaningful human contact a day. It also states that solidarity confinement "shall never be imposed on children, pregnant women, breastfeeding mothers or parents with infants in prison", and it "shall not be imposed on prisoners with mental or physical disabilities when their condition would be exacerbated by it."<sup>57</sup> It further states that those in confinement should be visited daily by the prison director or an authorised member of the prison staff, as well as by the medical practitioner. If the prisoner's mental or physical condition is deteriorating it is required that the confinement is terminated. ACJRD welcomes the amendments of the European Prison Rules and recommends that similar provisions are adopted to the Irish Prison Rules.

## 5. Family Relationships

- 5.1. The European Prison Rules state that all prisons should allow prisoners to maintain and develop family relationships in as normal a manner as possible. The importance of family relationship is also highlighted in the Nelson Mandela rules which states that prisoners shall be able to communicate with family and friends in regular intervals. The rationale for ensuring a family connection is maintained is because it assists with the rehabilitation and desistance process. As such, the ACJRD believes that this area should be addressed in the review of the Prison Rules.
- 5.2. The current system in place is too limiting on prisoners wishing to maintain meaningful relationships with family and friends. In accordance with the current Rules, prisoners must be provided with at least one phone call a week to a family member or a friend (Rule 46(2)), and they generally last six minutes. The number of phones calls a prisoner gets depends on the regime level the prisoner has achieved on Incentivised Regimes Policy. Remand prisoners have the right to make a least five phone calls a week (Rule 46(4)(a)). In terms of visits sentenced prisoners must receive at least 1

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<sup>56</sup> CPT report from 2019 visit, *supra* note 33.

<sup>57</sup> Council of Europe, Recommendation, *supra* note 25.

visit per week for a period of 30 minutes. The maximum of the visits is to be decided by the Governor. Remand prisoners must receive a minimum of three visits for a period of 15 minutes with the maximum number of visits per week being six.

- 5.3. It was noted by the Committee that a prisoner in Mountjoy Prison spoke about how prisoners sold their prison slots which indicates the scarcity of visiting slots.<sup>58</sup> This issue is arguable partially due the lack of flexibility in visiting hours for the prisons. At the moment, no prison in Ireland offers evening visiting hours and there are limited weekend options. The visiting hours fail to take into account work commitments for family and friends and school hours for the children of prisoners. As such when examining the current prison system and the rights of prisoners there should be a discussion on increasing the options in regard to visiting hours and the length of the visit itself.
- 5.4. The number of calls and / or visits a prisoner receives is often at the discretion of the Governor or based on the regime level of the prisoner. However, the current rules do not outline specific circumstances where the Governor may take reduce calls or visits. This leaves a wide margin of discretion to the Governor and can result in unfair and varied practice across Irish Prison. The ACJRD submits that it needs to be explicitly stated in the Rules when the Governor can vary prison visits and calls. Further, while the Incentive Regime Policy outlines that prison visits and calls can be varied dependent on the prisoner regime level, it fails to account for the exact number of calls or visits prisoners may receive at each level.<sup>59</sup> The ACJRD believes this should be set out explicitly to provide prisoners with greater knowledge of the exact number of calls available at each level. This would act as an additional incentive as prisoners would know the benefits and disadvantages of all their actions.
- 5.5. The revision of the Prison Rules should take into consideration the overall experience family and friends have when visiting a prisoner. This includes prior searches conducted and the visiting conditions themselves. If visitors have a negative experience, they will be less inclined to return which can have a negative impact on prisoners.
- 5.6. Research from 2019, reported that visitors had negative experiences when visiting the prisons. This included unsympathetic or abusive treatment from prison officers and intrusive personal searches.<sup>60</sup> Similar concerns were raised in Mountjoy Prison where family members have reported that they have had negative experiences while visiting the prison.<sup>61</sup> In the European Prison Rules, it is stated that searches of children must be in a child friendly manner and intrusive searches on children is prohibited. The ACJRD submits that the updated Prison Rules should include additional guidance on searches of visitors of family members and should have regard to ensuring bodily integrity and dignity of all visitors is upheld. Further, it should look to eliminate any

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<sup>58</sup> Prison Visiting Committees, *Mountjoy Prison Visiting Committee Annual Report 2019*, (2020).

<sup>59</sup> Irish Prison Service, *Incentivised Regime Policy*, (February 2012).

<sup>60</sup> O'Dwyer, K., Kelliher, S. and Bowes, J., "Prisoners Returning Home: Prisoners and Family Reintegration Dublin: Childhood Development Initiative", (2019).

<sup>61</sup> Prison Visiting Committees, *Mountjoy Prison Visiting Committee Annual Report 2019*, (2020).

practices that may deter visitors from visiting prisoners. The ACJRD also believes that the new Rules should place obligations on prisons to provide greater privacy and space during visits. There should also be reference to the need for prisons to provide child-friendly areas for visits.

5.7. An issue often raised by prisoners is that reducing family visits or calls is often used as a punishment.<sup>62</sup> This is prohibited practice under both Nelson Mandela Prison Rules and under the European Prison Rules.<sup>63</sup> This practice should be moved away from, and alternative forms of punishment should be used. The ACJRD believe the new Prison Rules should reflect a move away from restricting family visits or calls as a form of punishment.

## 6. Language of the New Rules

6.1. The ACJRD submits that the current language of the Rules leave room for ambiguity and that moving forward the language needs to be more definitive to ensure the rights of prisoner are safeguarded. This means that the language of the rules themselves should not leave room for interpretation when outlining the entitlements for prisoners.

6.2. In the current Irish Prison Rules, there are a number of minimum standards<sup>64</sup> set in regard to conditions of imprisonment which can have detrimental impact on prisoners. Minimum standards in such rules should not be regarded as a target but rather there needs to be a greater emphasis on the need to exceed these standards. As such, the revised rules need to outline the importance of exceeding these standards and should consider increasing these standards to allow for greater respect of the basic rights of prisoners in Ireland.

6.3. Additionally, a number of rules relating to the basic entitlements of prisoners are subject to available resources<sup>65</sup> and/ or the discretion of the Governor.<sup>66</sup> These rules need to be addressed in the review as the entitlements of the prisoners should not be limited due to external factors. The Rule need to state that prisoner *must* have access to services, education, visits, healthcare, etc and none of these rights should have a limiting provision. Further, there needs to be specific guidelines setting out when the Governor may alter the conditions of imprisonment. In the current Rules, the rationale provided for such changes is for the maintenance of good order and safe and secure custody.<sup>67</sup> However, this provides insufficient clarity as to when conditions can be modified and as such the ACJRD would recommend that explicit guidelines be set out in the revised rules on this matter.

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<sup>62</sup> Ibid.

<sup>63</sup> United Nations, Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) Rule 43(3); European Prison Rules 60.4.

<sup>64</sup> Prison Rules 2007 Rule 25, Rule 27(3), Article 32(1), Rule 35, Rule 46, Rule 110(7).

<sup>65</sup> Prison Rule 2007, Rule 13(3), Rule 21(3), Rule 23(2), Rule 24(1), Rule 24(3), Rule 32(1) Rule 34(1), Rule 48(1), Rule 49(1), Rule 67(12), Rule 69(1), Rule 71(1), Rule 72(3).

<sup>66</sup> Irish Prison Rule 2007, Rule 21(1), Rule 27(1), Rule 34(11), Rule 38(2).

<sup>67</sup> Irish Prison Rules 2007, Rule 21(1), Rule 23(2), Rule 34(1), Rule 36(9), Rule 48(1), Rule 49(1).



## 7. Accountability in Irish Prisons

7.1. To ensure the safety of all prisoners it is essential the penal system is fair and transparent. For accountability to be achieved there needs to a robust mechanism for oversight and an effective complaint procedure.

### 7.2. *Inspections*

7.2.1. Domestically, inspections are carried out on Irish prisons by the Office of the Inspector of Prisons and Prison Visiting Committee. However, concerns arise in relation to the ability of both of these organisations to inspect prisons effectively due to resource issues. There are significant delays in relation to both organisations publishing reports from their inspections. In 2021, there was an increase in inspection reports by the Inspector of Prisons, with reports being published on the COVID 19 conditions in Mountjoy Men’s Prison, Cloverhill Prison, Wheatfield Prison and Limerick Prison. However, prior to this there was a delay of a number of years in Inspector of Prisons Reports. The last inspection report for Loughan House is dated as 2014, while in Dochas Centre and Arbour Hill Prison the last inspection reports were 2013 and 2011. Similarly, the Visiting Committee’s last annual report is dated 2019. The lack of consistency on inspection reports raises questions of transparency and fairness within the penal system. The ACJRD submits that the new Prison Rules should encompass obligation for regular and public reports on prison inspections. These reports should cover all aspects of the penal system from conditions of imprisonment, complaints, prison infrastructure, restricted regimes, prison visitors, etc.

7.2.2. Ireland ratified the Optional Protocol to the Convention Against Torture (OPCAT) on 2nd October 2007 but has yet to ratify this instrument. The Office of the Inspector of Prisons<sup>68</sup> published a three-year strategic plan which has included taking steps to ratify the OPCAT. The OPACT requires State Parties to establish a National Preventive Mechanism (NPM). According to OPCAT Article 3, State Parties should set up, designate or maintain at domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.<sup>69</sup> This body would act as an additional body which will monitor Irish prisons. A NPM enjoys both operational and functional independence which means it would not be subject to orders of a state authority.<sup>70</sup> A NPM would then have the power to visit any place in the jurisdiction where a person is deprived of their liberty.<sup>71</sup> They would have the power to make recommendations on places that deprive a person liberty with the idea of making improvements. Reports made by a NPM should be widely disseminated. The revision of the Prison Rules should include provisions which would allow for the

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<sup>68</sup> Office of the Inspector of Prisons, *Strategic Plan 2020-2023*, (2020).

<sup>69</sup> Optional Protocol To The Convention Against Torture.

<sup>70</sup> Professor Rachel, Murray Dr Elina Steinerte, Irish Human Rights and Equality Commission, *Ireland and the Optional Protocol to the UN Convention against Torture*, (2017).

<sup>71</sup> Optional Protocol To The Convention Against Torture.

establishment of a NPM in Ireland. The new Prison Rules should also include provisions allows for the ratification of the OPCAT.

### 7.3. *Independent and External Complaint Mechanism*

7.3.1. Prisoners are often vulnerable to human rights violation, making it crucial that there is an effective and robust complaint mechanism in place. Prisoners' complaints are currently handled internally through the Governor. Prisoners can make complaints to the Governor (Rule 55), or they can request for the Governor to arrange for them to meet with the Visiting Committee (Rule 56) or with an officer of the Minister (Rule 57). There have been improvements with the internal complaints system within the prisons due to the establishment of a new Complaint Unit and the training of staff members.<sup>72</sup> However, further improvements need to be made to the complaints system in Irish Prisons.

7.3.2. The Prison Rule (Amendments) 2013 has added provisions which require the Governor to notify the Inspector of Prisons of the complaint. The function of the Inspector of Prisons is not to investigate individual complaints, but rather the circumstances relating to a complaint. There has however been low compliance with this system, as demonstrated in the table on the following page.

**Table 2: Requirements of and Compliance of Rule 57B<sup>73</sup>**

| Rule 57B Prison Rules 2007-2017   | % Compliance 2020                   | % Compliance 2019                   | % Compliance 2018                  |
|---|-------------------------------------|-------------------------------------|------------------------------------|
| Governor notification to Inspector of Prisons within 7 days of being notified of the complaint [57B(4)]   | 73 (81.11%)                         | 53 (79.10%)                         | 65 (82.27%)                        |
| OIP shall be notified of the appointment of the investigator [57B(5)(a)]  | 2 (2.22%)                           | 20 (29.85%)                         | 0 (0%)                             |
| Complaints deemed by the IPS DG to be vexatious, without foundation, or outside scope of rule and terminated. Inspector of prisons is notified of the decision and reasons for the decision [57B(5)(b)] | N=2<br>2 (100%)                     | N=1<br>1 (100%)                     | N=4<br>4 (100%)                    |
| Complaints withdrawn by prisoners and Director General decides investigation should be terminated. The OIP is (a) advised and (b) the reasons documented [57B(5)(c)]                                    | N=9<br>(a) 9 (100%)<br>(b) 9 (100%) | N=3<br>(a) 3 (100%)<br>(b) 3 (100%) | N=7<br>(a) 7 (100%)<br>(b) 5 (71%) |

<sup>72</sup> Houses of the Oireachtas, Prisoner Complaints Procedures, 30 June 2020.

<sup>73</sup> Office of the Inspector of Prisons, Annual Report, (2020).

|   |             |             |             |
|---|-------------|-------------|-------------|
| Complaints that proceeded to investigation  | 77 (85.55%) | 65 (97.01%) | 68 (86.07%) |
| Full investigation reports received by OIP  | 25 (32.46%) | 15 (23.07%) | 22 (32.35%) |
| Investigation reports received within 3 months                                      | 2 (3.07%)   | 1 (1.53%)   | 0 (0%)      |
| Interim reports submitted to OIP  | 9 (12%)     | 2 (3.12%)   | 0 (0%)      |
| Number of investigation reports received where the complaint was grounded or upheld | 2(8%)       | 5(33.33%)   | 2(9.09%)    |

7.3.3. The poor compliance with the law in relation to prisoner complaints is concerning and can render the current system as unreliable and inadequate. This would indicate that the current Prison Complaint system is not fit for its purpose. As such the ACRD recommends that the new prison system seeks to address the prison complaint system by establishing a new more effective system. The Inspector recommended that this be the Ombudsman.<sup>74</sup> This recommendation was accepted by the Department of Justice and Equality and the Irish Prison System.<sup>75</sup> While there has been discussion of establishing an Ombudsman for prisons it has been announced that the Ombudsman will not begin managing prisoner complaints until late 2021.<sup>76</sup> The ACJRD submits that the new Prison Rules should include provisions on the Ombudsman. This will ensure its establishment and the Rules should provide details on powers and procedures.

## 8. Recommendation

8.1. The review of the Prison Rules is a welcome step towards improving the Irish penal system. In the above submission the ACJRD has outlined some of the issues in Irish Prisons and has put forward a number of recommendations to address these concerns. These recommendations have been summarised in table below.

Table 3: List of Recommendations

| Conditions of Imprisonment |  |
|----------------------------|--|
| 1.                         | The ACJRD recommends that standards and procedures need to be put in place for when a prison has reached or is near full capacity.   |
| 2.                         | ACJRD submits that there needs to be specific rules on what can be considered suitable accommodation for prisoners and what would not be considered suitable.  |
| 3                          | The ACJRD submits that the Rule must be amended to ensure that access to sanitary facilities is not limited. The Rules should also outline what is regarded as reasonable access to sanitary facilities. |
| 4.                         | The revised Rule should seek to abolish the practice of slopping out.  |

<sup>74</sup> Office of the Inspector of Prisons, *Review, Evaluation and Analysis of the Operation of the IPS Prisoner Complaints Procedure*, (2016) p. 50.

<sup>75</sup> Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 148, 30 January 2019'.

<sup>76</sup> Maresa Fagan, "No Prisoner Ombudsman Until Late 2021", *Irish Examiner*, (November 2020).

|                                   |  |
|-----------------------------------|--|
| 5.                                | The ACJRD recommends that the Prison Rules should set out a comprehensive list of services which can be offered within a prison and when services may be restricted.   |
| 6..                               | The ACJRD submits that the existing rules on freedom of religious expression and practice should be broadened to include the facilitation of such practice. The new Rules need to set out how the prison will facilitate the freedom of religious expression across all religions to ensure the basic spiritual needs of all prisoners are met.  |
| 7.                                | The ACJRD submits that the news Rule must expand upon the education services in the prisons and include provisions which will ensure prisoners are provided with the relevant resources.   |
| 8.                                | The ACJRD submits that the Council of Europe guidelines on staffing should be incorporated into the new Prison Rules. Further, there needs to be specific rules on staff training, continuous professional development, diversity in recruitment, support and accountability.  |
| 9.                                | The ACJRD submits that the provisions in the UN Bangkok Rules should be incorporated into the new Prison Rules. The new Prison Rules should also include provisions on an open prison for women  |
| <b>Healthcare Provisions</b>      |  |
| 10.                               | The ACJRD urges for steps to be taken to place prison healthcare under the Minister for Health and for the revised Rules to explicitly state obligations of the Minister for Health in regard to prison healthcare. The revised Rules must provide principles outlining how cooperation between prison healthcare and national healthcare should operate in order to move away from the current disjointed practice. |
| 11.                               | The ACJRD believes that Rule 103 should be amended. The ACJRD recommends that for greater transparency and to ensure the healthcare of all prisoners is met this provision should be amended to provide guiding principles on when refusal can occur as well as review procedure which will allow the recommendation to be revisited at a later stage.   |
| 12.                               | The ACJRD puts forward that the revised Prison Rules should have specific provisions on the need for structured activities for prisoners suffering with their mental health.   |
| 13.                               | ACJRD proposes that required staffing levels for psychiatric units should be included in the revised Prison Rules.   |
| 14.                               | The review of the Prison Rules should consider including provisions for procedures to follow when there is a shortage of beds in mental health facilities.   |
| 15.                               | The revised Rules should include provisions on how the Irish Prison Service and An Garda Síochána could divert prisoners to mental health facilities and how they would engage with mental health facilities.  |
| <b>Restricted Prisoner Regime</b> |  |
| 16.                               | ACJRD submits that the revised Prison Rules should include a provision requiring a record to be taken of out-of-cell time of prisoners on restricted regime and such information should be available publicly to ensure transparency within the prison system.   |
| 17.                               | The revision of the Prison Rules should provide concrete rules in regard to structured activities for those on restricted regimes. These rules should set out a minimum standard that needs to be in place for structured activities to be regarded as meeting the required two hours of meaningful human contact.   |

|   |  |
|---|--|
| 18.   | The ACJRD welcomes the amendments of the European Prison Rules relating to restricted regimes and recommends for similar provisions to be adopted to the Irish Prison Rules.   |
| <b>Family Relationships</b>                 |  |
| 19.   | The ACJRD submits that the new Rules need to explicitly state when the Governor can vary prison visits and calls.  |
| 20.   | The ACJRD believes that the Rules should set out explicitly the number of calls or visits available to prisoners on each level as part of the Incentive Regime Policy.   |
| 21.   | The ACJRD submits that the updated Prison Rules should include additional guidance on searches on visitors to prisons. These Rules should have regard to upholding the bodily integrity and dignity of all visitors. Further, it should look to eliminate any practices they may deter visitors from visiting prisoners. |
| 22.   | The ACJRD also believes that the new Rules should place obligations on prisons to provide greater privacy and space during visits. There should also be reference to the need to provide child-friendly areas in prisons for visits.   |
| 23.   | The ACJRD believes the new Prison Rules should reflect a move away from restricting family visits or calls as a form of punishment.  |
| <b>The Language of the new Prison Rules</b> |  |
| 24.   | The ACJRD submits that the current language of the Rules leave room for ambiguity and that moving forward the language needs to be more definitive to ensure the rights of prisoner are safeguarded.   |
| 25.   | The ACJRD submits that the new Rules must outline the importance of exceeding standards set out in the Act relating to conditions of imprisonment. Consideration should also be given to increasing some of these standards.   |
| 26.   | The ACJRD submits that the new Rules should ensure that prisoners' rights are not limited by external factors such as limited resources or logistics.  |
| 27.   | The ACJRD believes that there needs to be specific guidelines setting out when the Governor may alter the conditions of imprisonment.  |
| <b>Accountability in Irish Prisons</b>      |  |
| 28.   | The ACJRD submits that the new Prison Rules should encompass obligation for regular and public reports on prison inspections. These reports should cover all aspects of the penal system from conditions of imprisonment, complaints, prison infrastructure, restricted regimes, prison visitors, etc.                   |
| 22.   | The revision of the Prison Rules should include provisions which would allow for the establishment of a NPM in Ireland. The new Prison Rules should also include provisions for the ratification of the OPCAT.   |
| 23.   | The ACJRD recommends that the new prison system seeks to address the prison complaint system by establishing a new more effective system.  |
| 24.   | The ACJRD submits that the new Prison Rules should include provisions on the Ombudsman. This will ensure its establishment and the Rules should provide details on powers and procedures.  |

## 9. Bibliography

### *Texts and Articles*

- Charles O'Mahony, "Responding to defendants and offenders with the Mental Health Problems in Ireland: The Need for Reform", (2017) *Irish Criminal Law Journal*.
- Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 16 to 26 September 2014*, (2015).
- Council of Europe, *Commentary to Recommendation REC(2006)2 of the Committee of Ministers to member states on the European Prison Rules*, (2018).
- Council of Europe, *White Paper On Prison Overcrowding*, (2016)
- Curtin, K., Monks, S., Wright, B., Duffy, D., Linehan, S., & Kennedy, H., "Psychiatric morbidity in male remanded and sentenced committals to Irish prisons", (2019) *Irish Journal of Psychological Medicine*, 26(4), 169-173.
- Department of Health and the International Centre for Prison Studies, *Prison Health and Public Health: The integration of Prison Health Services Report from a conference*, (April 2004).
- Department of Justice and Equality (2019), 'Parliamentary Questions, PQ 148, 30 January 2019'
- Department of Justice, *Reports of the Commission of Investigation into the death of Gary Douch*, Volume 2, Final Report.
- Department of Justice and Equality, *Arbour Hill Visiting Committee Annual Reports*, (2019).
- Department of Justice and Equality, *Castlerea Prison Visiting Committee Annual Reports*, (2019).
- Department of Justice and Equality, *Midlands Prison Visiting Committee Annual Reports*, (2019).
- Department of Justice and Equality, *Mountjoy Prison Visiting Committee Annual Reports*, (2019).
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *Living space per prisoner in prison establishments: CPT standards*, (15 December 2015).

- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 23 September to 4 October 2019*, (2020).
- Houses of the Oireachtas, *Prisoner Complaints Procedures*, 30 June 2020.
- Irish Penal Reform Trust, *Progress in the Penal System (PIPS) A framework for penal reform*, (2019).
- Irish Penal Reform Trust, *Progress in the Penal System (PIPS) A framework for penal reform*, (2018).
- Irish Penal Reform Trust, *Progress in the Penal System (PIPS) A framework for penal reform*, (2017).
- Irish Penal Reform Trust, *'Behind the Door': Solitary Confinement in the Irish Penal System*, (2018).
- Irish Penal Reform Trust, *Piecing It Together: Supporting Children and Families with a Family Member in Prison in Ireland*, (2021).
- Irish Penal Reform Trust, *Know Your Rights: Your Rights as a Prisoner*, (2021).
- Irish Penal Reform Trust, *Progress in the Penal System: Assessing progress during a pandemic* (2020).
- Irish Prison Rules, *Census Of Restricted Regimes April 2021 – Report*, (2021).
- Irish Prison Service, *2021 Prison Populations*, (2021).
- Irish Prison Service, *Census Prison Population January 2021 – Cell occupancy – In-Cell Sanitation*, (2021).
- Irish Prison Service, *Incentivised Regime Policy*, (February 2012).
- Irish Prison Services, *Census Of Restricted Regimes April 2021 – Report*, (2021).
- Jane Mulcahy, “Working in Irish Prisons: Perspectives from the Front Lines” (2020) Irish Criminal Law Journal.
- Kildare Street, *Written Answers, Thursday 13 June 2019, Department of Justice and Equality, Prison medical services*, (2019).
- Maresa Fagan, “No Prisoner Ombudsman Until Late 2021”, *Irish Examiner*, (November 2020).
- O’Dwyer, K., Kelliher, S. and Bowes, J., “Prisoners Returning Home: Prisoners and Family Reintegration Dublin: Childhood Development Initiative”, (2019).
- Office of the Inspector of Prisons, *Annual Report*, (2020).
- Office of the Inspector of Prisons, *Annual Report*, (2020).

- Office of the Inspector of Prisons, *COVID-19 Thematic Inspection of Mountjoy Men's Prison 1-4 March 2021, (2021).*
- Office of the Inspector of Prisons, *COVID-19 Thematic Inspection of Cloverhill Prison 18-19 March 2021, (2021).*
- Office of the Inspector of Prisons, *COVID-19 Thematic Inspection of Wheatfield Prison 6-7 April 2021, (2021).*
- Office of the Inspector of Prisons, *Healthcare in Irish Prisons, Report by Judge Michael Reilly, (2016).*
- Office of the Inspector of Prisons, *Review, Evaluation and Analysis of the Operation of the IPS Prisoner Complaints Procedure, (2016) p. 50.*
- Office of the Inspector of Prisons, *Investigation Report into The Circumstances Surrounding The Death Of Mr I 2018, (2020).*
- Office of the Inspector of Prisons, *Strategic Plan 2020-2023, (2020).*
- *Prison Visiting Committees, Mountjoy Prison Visiting Committee Annual Report 2019, (2020).*
- Professor Rachel Murray Dr Elina Steinerte, Irish Human Rights and Equality Commission, *Ireland and the Optional Protocol to the UN Convention against Torture, (2017).*
- Sharon Shalev, *“Solitary Confinement As a Prison Health Issue” (November 18, 2017).*
- *World Health Organisation, Trenchin Statement on Prisons and Mental Health (October 2007) p.5.*
- World Health Organization and International Committee of the Red Cross, *Information Sheet: Mental Health and Prisons (2005).*

#### *Cases*

- *Peers v. Greece App No. 28524/95 (ECHR 19 April 2001).*

#### *Legislation*

- European Prison Rules
- Irish Prison Rules 2007
- Optional Protocol To The Convention Against Torture.



- United Nations, Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)
- United Nations, Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), (2010).